

# Montana Code Annotated 2005

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**70-16-111. Entry to property by professional land surveyor or other qualified person -- trespass exception -- notice -- liability.** (1) Subject to the conditions and restrictions of this section, the provisions of 45-6-203 do not apply to a person who is licensed or registered under Title 37, chapter 67, part 3, as a professional land surveyor, as defined in 37-67-101, or to a person acting under the direct supervision of a professional land surveyor as an employee, agent, or representative.

(2) A person qualified under subsection (1) may enter public or private land to investigate and use boundary evidence and perform boundary surveys if the notice requirements of subsection (3) are met.

(3) (a) At least 15 days before the desired date of entry to land, a professional land surveyor shall give notice to the owner of the land, by certified mail, return receipt requested. The notice must contain the following information:

- (i) the identity of the person for whom the survey is being performed;
- (ii) the purpose for which the survey is being performed;
- (iii) the name of the employer of the professional land surveyor;
- (iv) the identity of the professional land surveyor;
- (v) the dates, times, and location of entry to the land, including the estimated number of entries;
- (vi) a timetable for completion of the survey, including an estimated completion date; and
- (vii) a statement requesting the landowner to provide the surveyor with the name of each person who occupies the land as a tenant or lessee.

(b) A landowner may waive the notice requirement of this subsection (3), either orally or in writing.

(c) This section does not impose liability upon a landowner who fails or refuses to provide the requested entry.

(4) (a) If a landowner does not acknowledge receipt of the notice within 15 days, a person qualified under subsection (1) may enter the land pursuant to the specifications given in the notice.

(b) If a landowner acknowledges receipt of the notice within 15 days, the landowner may modify the access provisions of the notice, as long as the modifications do not unreasonably restrict completion of the survey.

(5) Persons qualified under subsection (1) who enter land pursuant to this section shall carry on their person identification sufficient to identify themselves and their employer or principal and shall present the identification upon request.

(6) Vehicular access to perform surveys is limited to established roads and trails, unless approval for other vehicular access is granted by the landowner.

(7) Approval of the landowner is required for the clearing of trees, brush, or other vegetation.

(8) A landowner may request a person qualified under subsection (1) who enters land pursuant to this section to wash any vehicle prior to entry in order to remove mud and debris that might carry noxious weeds or noxious weed seeds. The person may request that the landowner be present at the time of any entry to inspect the vehicle under the terms of this subsection.

(9) Entry upon land for survey purposes by a person qualified under subsection (1) creates a rebuttable presumption that the landowner or lessee properly protected the person against personal injury or property damage while the person was on the land.

(10) As an act of good will and in order to keep the landowner informed, a professional land surveyor shall supply the landowner with information on located, established, or reestablished corners that lie on the land or that may affect the boundaries of the land. Upon request, the professional land surveyor shall provide the landowner with a copy of any relevant survey filed or recorded.